

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *RG* D.C.
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THOMAS M. GOULD
CLERK U.S. DISTRICT COURT
WD OF TENNESSEE

JAMES I. BURLISON, RODNEY L.
WAITS, and BUFORD O'NEAL
TANKERSLEY,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 04-2597 M1/P

ORDER SETTING TELEPHONE CONFERENCE

The Court will hold a brief telephone conference in this cause on Tuesday, December 20, 2006, at 2:00 p.m. Attached is an order consistent with the Court's understanding of the procedure through which the Court will resolve the parties' dispute. The Court has reviewed the transcript from the pretrial conference and believes that a clarification of the parties' understanding regarding the procedures to be used is desirable. The parties should be prepared to discuss these procedures during the telephone conference.

So ORDERED this 14th day of December, 2005.

Jon P. McCalla

JON P. McCALLA
UNITED STATES DISTRICT JUDGE

(68)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JAMES I. BURLISON, RODNEY L.)	
WAITS, and BUFORD O'NEAL)	
TANKERSLEY,)	
)	
Plaintiffs,)	
)	
v.)	No. 04-2597 M1/P
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

**PROPOSED ORDER DENYING WITHOUT PREJUDICE PLAINTIFFS' RENEWED
MOTION FOR SUMMARY JUDGMENT**

Before the Court is Plaintiffs' Renewed Motion for Summary Judgment, filed August 16, 2005. Defendant responded in opposition on September 14, 2005.

Plaintiffs bring this action pursuant to 28 U.S.C. § 2409a, the Quiet Title Act ("the QTA")¹, to quiet title to a purported easement over part of the Lower Hatchie National Wildlife Refuge located in Lauderdale County, Tennessee, which provides access to and from property held by Plaintiffs.² Plaintiffs move for summary

¹ In their Amended Complaint, Plaintiffs incorrectly state that they bring this action pursuant to 28 U.S.C. § 2409. (Am. Compl. ¶ 12.)

² Section 2409a provides that "[t]he United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the
(Continued . . .)

judgment with respect to their claim of the existence of a permanent easement of ingress and egress over the Lower Hatchie National Wildlife Refuge.

After Plaintiffs filed their motion, the Court held a pretrial conference in this matter on October 18, 2005. At the conference, the parties agreed to proceed to trial and to dispose of the case on the merits instead of on a preliminary determination of summary judgment. Counsel will give summation arguments and the case will be tried on the affidavits, depositions, and memoranda of law. Accordingly, Plaintiffs' Renewed Motion for Summary Judgment is hereby DENIED, without prejudice.

So ORDERED this ____ day of December, 2005.

JON P. McCALLA
UNITED STATES DISTRICT JUDGE

(. . . continued)

United States claims an interest, other than a security interest or water rights." 28 U.S.C. § 2409a(a).



Notice of Distribution

This notice confirms a copy of the document docketed as number 68 in case 2:04-CV-02597 was distributed by fax, mail, or direct printing on December 19, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT